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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  MEGAN ELLIOTT, in her personal  
12                  capacity, MICHAEL B. SMITH, as  
13                  personal representative of the Estate of  
14                  TIM ELLIOTT, deceased,

15                  Plaintiffs,

16                  v.

17                  MASON COUNTY, a political subdivision  
18                  of the State of Washington, et al.,

19                  Defendants.

20                  CASE NO. 17-6067 RJB

21                  ORDER DECLINING TO  
22                  EXERCISE SUPPLEMENTAL  
23                  JURISDICTION AND DISMISSING  
24                  STATE CLAIMS WITHOUT  
PREJUDICE

25                  This matter comes before the Court on the January 28, 2019 order to show cause. The  
26                  Court has considered the pleadings filed regarding the order to show cause and the file herein.

27                  On December 22, 2017, Plaintiff Megan Elliott filed this case in connection with the  
28                  shooting death of her father, Tim Elliott, by Defendant Mason County Sheriff's Department  
29                  Sergeant Trevor Severance. Dkt. 1 and 23. The Amended Complaint asserts federal  
30                  constitutional claims for violation of Mr. Elliott's Fourth Amendment right against unreasonable  
31                  seizures and for violation of Ms. Elliott's Fourteenth Amendment due process right to the

1 companionship of her parent. Dkt. 23. It also makes state law claims for negligence, gross  
2 negligence, battery, and outrage. *Id.* The Amended Complaint seeks damages, attorneys' fees,  
3 and costs. *Id.*

4 All federal claims and the claims for battery and outrage have been dismissed. Dkts. 53  
5 and 61. In the event all federal claims were dismissed, the Plaintiffs moved the Court for an  
6 order declining to exercise supplemental jurisdiction over the state law claims of negligence and  
7 gross negligence, in a footnote of the response to the motion for summary judgment. In the  
8 January 28, 2019 Order, the Court ordered the parties to show cause, if any they had, why the  
9 Court should not decline to exercise supplemental jurisdiction and dismiss the negligence and  
10 gross negligence claims without prejudice. Dkt. 61. The Defendants' motion for summary  
11 judgment of the negligence and gross negligence claims (Dkt. 53) was renoted. The parties  
12 responded to the order to show cause. Dkts. 62 and 63. The Plaintiffs argue that the Court  
13 should decline to exercise supplemental jurisdiction and the Defendants urge the Court to retain  
14 it. *Id.* The matter is ripe for decision.

#### 15 **STATE LAW CLAIMS AND EXERCISE OF SUPPLEMENTAL JURISDICTION**

16 Pursuant to 28 U.S.C. § 1337 (c), district courts may decline to exercise supplemental  
17 jurisdiction over a state law claims if: (1) the claims raise novel or complex issues of state law,  
18 (2) the state claims substantially predominate over the claim which the district court has original  
19 jurisdiction, (3) the district court has dismissed all claims over which it has original jurisdiction,  
20 (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.  
21 “While discretion to decline to exercise supplemental jurisdiction over state law claims is  
22 triggered by the presence of one of the conditions in § 1337 (c), it is informed by the values of  
23 economy, convenience, fairness, and comity.” *Acri v. Varian Associates, Inc.*, 114 F.3d 999,

1 1001 (9th Cir. 1997)(*internal citations omitted*).

2 Here, two of the four conditions in § 1367(c) are present. As above, all Plaintiffs' federal  
3 claims have been dismissed. Accordingly, this Court has "dismissed all claims over which it has  
4 original jurisdiction," and so has discretion to decline to exercise supplemental jurisdiction over  
5 the state law claims under § 1367(c)(3). Moreover, the remaining state claims "raise novel or  
6 complex issues of state law" under § 1367(c)(1). In particular, the issues surrounding the  
7 Defendants' defense under RCW 4.24.420 raise novel and complex issues of state law. These  
8 are issues for which the state court is uniquely suited. Because state courts have a strong interest  
9 in enforcing their own laws, *See Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 352 (1988),  
10 the value of comity is served by this Court declining jurisdiction. Further, the values of  
11 economy, convenience, and fairness may well be served by this Court's declining to exercise  
12 supplemental jurisdiction. *See Acri* at 1001.

13 Moreover, Washington's statute of limitations does not appear to be a problem under 28  
14 U.S.C. 1367(d). *Artis v. District of Columbia*, 138 S.Ct. 594, 598 (2018)(holding that  
15 "§1367(d)'s instruction to toll a statute of limitations period means to hold it in abeyance, i.e. to  
16 stop the clock" on the relevant state statute of limitation).

17 This Court should decline to exercise supplemental jurisdiction and dismiss the state law  
18 claims of negligence and gross negligence without prejudice.

19 The Defendants' motion for summary judgment regarding the state law claims of  
20 negligence and gross negligence (Dkt. 53) and all remaining deadlines should be stricken.

21 **IT IS SO ORDERED.**

22 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
23 to any party appearing pro se at said party's last known address.

1 Dated this 1<sup>st</sup> day of February, 2019.  
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4 ROBERT J. BRYAN  
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6 United States District Judge  
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